

who do not want to use banks, and it will not impact the banks or nonbanks that deal fairly with consumers, but it will deal severely with foreign nonbanks that are ripping off customers. This Bureau will serve as a watchdog against the kinds of abuses that nearly collapsed our financial system in 2008.

President Obama is right to recess-appoint Mr. Cordray. It is protected in the Constitution. That is a constitutional obligation and benefit President Obama has—or any President has. It is in the Constitution. President Bush had the same right to make recess appointments even though Democrats kept the Senate in pro forma session. Bush did not exercise that right or challenge the pro forma sessions in court because Democrats worked with him to confirm hundreds of his nominees. Unfortunately, Republicans have refused to work with President Obama as we did with President Bush. Instead, they are threatening political payback and more delays.

This brand of obstructionism is the reason Americans are disillusioned with Congress. They believe Congress cannot get anything done. It will take cooperation between Democrats and Republicans to turn that perception around. So we should show the American people that, with cooperation—we know it works, cooperation between the two parties—this body can accomplish great things.

#### STOCK ACT

Mr. REID. Mr. President, as to the STOCK Act, I am glad to see that spirit of cooperation is alive as we move forward. At least I hope so. It is bipartisan legislation. Members of Congress and their staff have a duty to the American people. They may not use privileged information they get on the job to personally profit. But the perception remains that a few Members of Congress are using their positions as public servants to serve themselves instead.

Insider trading laws were created to level the playing field and stop Wall Street excesses. And Members of Congress are not above the law. We must play by the same rules by which every other American plays. The STOCK Act will clear up any perception that it is acceptable for Members of Congress to profit from insider trading. It will end any confusion over whether Members of Congress can be prosecuted for their serious crime. They can be.

I am really disappointed that I had to file cloture to stop a Republican filibuster on this worthy legislation, but I did. Rather than let us move to this, we had to file cloture to stop this filibuster. So when we get on this bill—and we will get on this bill—we are going to have an open amendment process. It is my wish that Republicans will not abuse the comity that should be here in the Senate, and I hope these amendments that are offered will not

be nongermane, nonrelevant. I hope we can legislate on issues that are in the context of this legislation. I repeat, it is sure too bad we had to file cloture.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### REELECTION CAMPAIGN

Mr. KYL. Mr. President, President Obama is campaigning for reelection on a “soak the rich” kind of platform. He argues that income inequality and economic fairness are the defining issues of our time. In his narrative, the more prosperous and fair society requires more balance or redistribution.

Unfortunately, for the President, polls suggest Americans aren't lining up behind this politics of resentment. For example, a Gallup poll reports that just 2 percent of Americans rank the divide between rich and poor as the most pressing economic issue facing our country, that Americans are now less likely to view U.S. society as divided between the haves and have-nots than in 2008, and that only 46 percent believe reducing the wealth gap is extremely or very important; whereas, 82 percent say that about accelerating economic growth.

Despite the class-warfare rhetoric they hear on a daily basis, most Americans instinctively understand that adopting progrowth policies to boost mobility is wiser than adopting antigrowth policies to curb inequality. They realize if Washington increases tax rates, for example, and the size of government to achieve greater economic balance, the result will be less job creation and less opportunity for everyone.

Americans don't want the Federal Government to penalize success. They want the Federal Government to make it easier for them to succeed on their own. As American Enterprise Institute President Arthur Brooks wrote in his book, “The Battle,” earned success is the key to true human happiness and flourishing. Here is how he put it:

If we know we have the possibility of earning success, we know we can improve our lives and our lot.

Most Americans, he notes, support principles that aim to “stimulate true prosperity, not treat poverty.”

If we are looking to expand opportunities for earned success and prosperity, the best place to start is with a sweeping overhaul of our very inefficient Tax Code. Progrowth tax reforms would make the system fairer and simpler. Right now, it functions as a mechanism to deliver wealth to favored constituencies rather than a means to pay for government. In fact, syndicated columnist George Will recently noted the Tax Code has been tweaked 4,500 times in the last 10 years. Most of these tweaks, he wrote, have benefited “interests sufficiently strong and sophisticated to practice rent-seeking.” In other words, to get special benefits for themselves.

A fairer and more growth-oriented Tax Code would feature permanently lower rates—rates that would flatter but still be progressive. Such a Tax Code would benefit small business owners and entrepreneurs, who are America's biggest job creators. Many small businesses currently have the cash to invest, to innovate, to expand, and to create jobs, but they are sitting on the cash because of the threat of higher taxes.

Cutting the corporate tax rate would also fuel stronger growth and greater mobility. The statutory U.S. rate is now the second highest among advanced economies, and it has damaged American competitiveness while holding down wages. Indeed, the most recent Global Competitiveness Index from the World Economic Forum ranked the United States now fifth, behind Finland, Sweden, Singapore, and Switzerland. In 2008, America had the top ranking.

Coca-Cola's CEO Muhtar Kent recently underscored this development when he said China now has a more business-friendly environment than America. Kent cited tax policy as a particularly large hindrance. His experience may be different from a lot of others, but even for a major CEO to talk in these terms suggests we have more to do at home.

Beyond tax reform, policymakers must also stop shackling entrepreneurs with more and more regulations. The explosion of new highly complex rules over the last 3 years has spawned a new class of bureaucrats entrusted with decoding and enforcing thousands of regulations that will affect American businesses.

My Republican Senate colleague SUSAN COLLINS of Maine has introduced a bill I have cosponsored that would impose a temporary moratorium on new regulations that adversely affect jobs and the economy. It would also help if we could repeal the Obama administration's two signature laws, the Affordable Care Act and the Dodd-

Frank Act, both of which have dramatically increased regulatory uncertainty and created new economic distortions.

Obviously, Republicans are not against all regulations, and we support a strong social safety net. But we are against economically damaging regulations that fail a simple cost-benefit test. Both the ACA and Dodd-Frank would fail such a test, as would the 2002 Sarbanes-Oxley law. In late 2008 and early 2009, the Securities and Exchange Commission surveyed publicly traded firms affected by section 404 of Sarbanes-Oxley and it found that “a majority felt that the costs of compliance outweighed the benefits. This was especially true among smaller companies.”

While President Obama pays lip-service to economic growth on the campaign trail, many of his policies have undermined that goal. It is hard to create jobs at the bottom when you are obsessed with attacking people at the top.

The case for growth and success-oriented policies is not just practical, it is moral. The biggest economic favor policymakers can do for Americans is to support policies that make more opportunity, mobility, and the possibility of earned success.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

#### HONORING OUR ARMED FORCES

STAFF SERGEANT PERNELL HERRERA

Mr. UDALL of New Mexico. Mr. President, I rise today as we enter a new year to honor a brave young soldier who, sadly, did not see this new year. Army SSG Pernell Herrera died December 31, 2011, while serving in Afghanistan. He was 33 years old.

At times like this, words of elected officials seem so inadequate. Words will not ease the profound loss of Staff Sergeant Herrera's family. Words will not fully express our gratitude for Staff Sergeant Herrera's service to our Nation. But the death of a young soldier like Staff Sergeant Herrera demands our attention. It demands our respect, and it demands that we remember.

Pernell Herrera just wanted to serve his country. He enlisted in the New Mexico National Guard in 2006. He was assigned to C Company, 1st Battalion, 171st Aviation Regiment, and he served honorably over the last 5½ years. His journey ended in the course of that service. We are forever in his debt.

When we talk about our fallen soldiers, we honor their sacrifices and we also honor their lives. Pernell Herrera was born in Los Alamos. He grew up in Espanola and graduated from Espanola High School. He leaves behind a son Julian and a daughter Alicia.

Pernell wrote about himself on his Facebook page the following description:

I am a very easygoing dad of one son, and one daughter. They are the biggest joys of my life. I enjoy spending my free time with

my mom, and brother, family and friends. I'm currently in Afghanistan with the United States Army. I have served in the military for 5 years.

In the decade that our military has been fighting in Afghanistan, thousands of our fellow citizens have volunteered in service to our country. They have put their own safety at risk to protect the safety of others—in defense of the ideals we hold so dear. Some of these brave warriors, such as Staff Sergeant Herrera, tragically, do not come home.

To Staff Sergeant Herrera's family, I offer my deepest sympathies. We mourn your loss while we also honor his dedication to our country, and we are thankful for his service.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOEVEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOEVEN. I thank the Chair.

(The remarks of Mr. HOEVEN pertaining to the introduction of S. 2041 are located in today's RECORD under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. HOEVEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE STOCK ACT

Mr. LEVIN. Mr. President, the lifeblood of our democratic government is the contract between the people and their elected representatives—a contract that must be based on trust that elected officials will act for the good of our Nation and in the interests of their constituents and not for personal gain. To ensure that we maintain that trust, our Nation has laws and our Congress has rules that establish clearly the responsibilities of government officials, Members of Congress, and their staffs and that provide for the enforcement of violations. The legislation that will be before us is, in a way, preventive maintenance to protect that trust. It is a tightening of our legal and ethical guidelines as part of what must be a constant effort to ensure that the interests of our Nation and our constituents come first. Our constituents must have confidence that Members of Congress and our staffs will not use our positions for our personal financial benefit.

There should be no doubt that regardless of our action on this legislation, the STOCK Act, it is a violation of the trust our constituents placed in us, a violation of the democratic process, a violation of the securities laws, and a violation of congressional ethics rules for Members of Congress or their employees to engage in insider trading—the use of information not available to the public to make investment decisions.

Insider trading is and will remain prohibited for Members of this body to seek private profit through their public responsibilities, no matter the fate of this bill. But questions have been raised about insider trading by Members of Congress. The legislation before us today is designed to ensure that those questions are answered. It removes any doubt that insider trading by Members and employees of Congress is against the law and against congressional rules. It is important to remove that doubt because any appearance of a breach in trust between Congress and our constituents is so corrosive to honest, open, and effective government.

Back in December, the Homeland Security and Governmental Affairs Committee held extensive discussions on the need to preserve that trust, including a very productive hearing on December 1. Later in December, the committee held a markup and approved the Stop Trading on Congressional Knowledge Act, or the STOCK Act. I commend Chairman Senator LIEBERMAN and our ranking member, Senator COLLINS, for their leadership and the many members of the committee, Democratic and Republican, who made contributions to that process.

Two things became clear during our hearings and markup. First, there was consensus that we should remove any uncertainty about the prohibition on insider trading. The second thing that became clear was that there was a significant bipartisan desire to avoid any unintended consequences as we sought to remove any uncertainty. We reported out the legislation because of widespread agreement on our goals, but their remained concerns about the means, and it was understood that we would attempt to address those concerns before this bill came to the floor. So a number of us have worked in the weeks since to make sure our goals and our means are in concert. The revised legislation, which will be before us, meets that objective. It should remove any uncertainty over the prohibition on insider trading, and it avoids unintended, harmful consequences that concerned some of us.

I will point to two provisions that I believe are important to achieving those goals. The first reassures the American people that there are no barriers to prosecuting Members and employees of Congress for insider trading. It does so through language establishing that Members and employees of Congress have a duty arising from “a relationship of trust and confidence”